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# HOUSE BILL No. 1400

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-6-1.1.

**Synopsis:** Gasoline tax formula. Replaces the per gallon tax on the use of gasoline with a one cent per mile tax, effective January 1, 2003. Provides for the annual conversion of the per mile tax to a per gallon rate based on a formula involving the annual motor vehicle miles of travel for Indiana and the annual total certified taxable gallons of motor fuel. Provides for an annual adjustment to the per gallon conversion rate for inflation. Provides that the per gallon conversion rate may not be reduced below 15 cents per gallon in 2003 or, after 2003, below the conversion rate of the previous year. Requires two cents of the per gallon conversion rate collected for each gallon of gasoline to be transferred to the state highway road construction and improvement fund.

**Effective:** July 1, 2002.

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January 15, 2002, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1400

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Whereas, the Indiana General Assembly is compelled to respond to changes now occurring in motor vehicle propulsion technology that are expected to accelerate in the future;

Whereas, a shift in propulsion technology away from petroleum based motor fuels to alternatives such as natural gas and electricity is eroding the base for the per gallon gasoline tax;

Whereas, the Indiana General Assembly is compelled to ensure that adequate funding for road construction and maintenance can be secured in the future; and

Whereas, the Indiana General Assembly recognizes the great difficulty associated with abolishing the per gallon tax: Therefore, the Indiana General Assembly replaces the per gallon of gasoline purchased standard of taxation with a cents per mile traveled standard while providing a methodology for converting the cents per mile standard to a per gallon rate so that existing reporting and collection systems may continue to be utilized until a new system for reporting and collecting a per mile tax can be developed.

*Be it enacted by the General Assembly of the State of Indiana:*



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SECTION 1. IC 6-6-1.1-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 201. A **cents per mile** license tax ~~of fifteen cents (\$0.15) per gallon~~, **of one cent (\$0.01)** is imposed on the use of all gasoline used in Indiana, except as otherwise provided by this chapter. **The cents per mile license tax is annually converted to a per gallon rate as provided in section 201.2 of this chapter.** The distributor shall initially pay the tax on the billed gallonage of all gasoline the distributor receives in this state, less any deductions authorized by this chapter. The distributor shall then add the per gallon amount of tax to the selling price of each gallon of gasoline sold in this state and collected from the purchaser so that the ultimate consumer bears the burden of the tax.

SECTION 2. IC 6-6-1.1-201.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 201.2. (a) **As used in this section, "motor fuel" has the meaning set forth in IC 6-6-4.1-1(g).**

(b) **As used in this section, "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index for Indiana, all items, all urban consumers, or its successor index.**

(c) **The per gallon conversion of the cents per mile license tax imposed under section 201 of this chapter is the amount determined in STEP SEVEN of the following formula, rounded off to the nearest one-tenth cent (\$0.001):**

**STEP ONE: Divide:**

(A) the Indiana motor vehicle miles of travel (VMT) for the calendar year immediately preceding the calendar year in which the new per gallon conversion rate must be published under subsection (d), as reported by the United States Federal Highway Administration; by

(B) the certified taxable gallons of motor fuel for the calendar year immediately preceding the calendar year in which the new per gallon conversion rate must be published under subsection (d), as reported by the department;

**to determine the current average miles per gallon (AMPG).**

**STEP TWO: Multiply the AMPG calculated under STEP ONE by the cents per mile license tax imposed under section 201 of this chapter.**

**STEP THREE: Determine the percentage change between the CPI as last reported for calendar year 1997 and the CPI as last reported for the previous calendar year.**

**STEP FOUR: Express the percentage change determined in**



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STEP THREE as a three (3) digit decimal rounded to the nearest thousandth.

STEP FIVE: Add one (1) to the decimal determined in STEP FOUR.

STEP SIX: Multiply the STEP TWO amount by the sum determined in STEP FIVE.

STEP SEVEN: For calendar year 2003, determine the greater of fifteen cents (\$0.15) or the STEP SIX result. For calendar years beginning after December 31, 2003, determine the greater of:

(A) the STEP SIX result; or

(B) the amount determined under this STEP for the previous calendar year.

(d) Not later than November 1 of each year, the department shall:

(1) publish the annual tax rate in effect for the following calendar year in the Indiana Register; and

(2) widely disseminate information concerning the applicability of the per gallon conversion rate.

(e) Not later than November 1 of each year, the department shall publish in the Indiana Register and widely disseminate information concerning:

(1) the certified taxable gallons of fuel; and

(2) the Indiana vehicle miles of travel;

used in the calculation of the per gallon conversion rate under subsection (c).

SECTION 3. IC 6-6-1.1-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 502. (a) Except as provided in subsection (b), at the time of filing each monthly report, each distributor shall pay to the administrator the full amount of tax due under this chapter for the preceding calendar month, computed as follows:

(1) Enter the total number of invoiced gallons of gasoline received during the preceding calendar month.

(2) Subtract the number of gallons for which deductions are provided by sections 701 through 705 of this chapter from the number of gallons entered under subdivision (1).

(3) Subtract the number of gallons reported under section 501(3) of this chapter.

(4) Multiply the number of invoiced gallons remaining after making the computation in subdivisions (2) and (3) by the tax rate prescribed by section 201.2 of



1 this chapter to compute that part of the gasoline tax to be  
 2 deposited in the highway, road, and street fund under section  
 3 802(2) of this chapter or in the motor fuel tax fund under section  
 4 802(3) of this chapter.

5 (5) Multiply the number of gallons subtracted under subdivision  
 6 (3) by the tax rate ~~prescribed by section 201~~ **determined under**  
 7 **section 201.2** of this chapter to compute that part of the gasoline  
 8 tax to be deposited in the fish and wildlife fund under section  
 9 802(1) of this chapter.

10 (b) If the department determines that a distributor's:

11 (1) estimated monthly gasoline tax liability for the current year;  
 12 or

13 (2) average monthly gasoline tax liability for the preceding year;  
 14 exceeds ten thousand dollars (\$10,000), the distributor shall pay the  
 15 monthly gasoline taxes due by electronic fund transfer (as defined in  
 16 IC 4-8.1-2-7) or by delivering in person or by overnight courier a  
 17 payment by cashier's check, certified check, or money order to the  
 18 department. The transfer or payment shall be made on or before the  
 19 date the tax is due.

20 SECTION 4. IC 6-6-1.1-606.6 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 606.6. (a) Except as  
 22 provided in subsection (c), every person included within the terms of  
 23 section 606(a) of this chapter who transports gasoline in a vehicle on  
 24 the highways of Indiana in a vehicle having a total tank capacity of less  
 25 than eight hundred fifty (850) gallons is liable to the state for a penalty  
 26 equal to the rate provided in ~~section 201~~ **section 201.2** of this chapter  
 27 on all gasoline transported into Indiana and delivered to any person  
 28 other than a licensed distributor.

29 (b) Except as provided in subsection (c), every person included  
 30 within the terms of section 606(c) of this chapter who transports  
 31 gasoline in a vehicle on the highways of Indiana is liable to the state for  
 32 a penalty equal to the rate provided in ~~section 201~~ **section 201.2** of this  
 33 chapter on all gasoline:

34 (1) received by the person for transportation to a point outside  
 35 Indiana;

36 (2) ~~not in fact~~ transported to a point outside Indiana; and

37 (3) ~~in fact~~ delivered to a person other than a licensed distributor  
 38 inside Indiana.

39 (c) The following are excluded when computing any liability under  
 40 this section:

41 (1) All deliveries of gasoline when the tax imposed by law was  
 42 charged or collected by the parties under the circumstances

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described in this section.

(2) Deliveries of gasoline used in computing the tax under section 301 of this chapter.

SECTION 5. IC 6-6-1.1-801.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 801.5. (a) The administrator shall transfer ~~one-fifteenth (1/15)~~ of the taxes that are collected under this chapter the amount determined under subsection (b) to the state highway road construction and improvement fund.

(b) The amount of the transfer required under subsection (a) is the amount determined in the last of the following STEPS:

**STEP ONE: Determine the amount of the taxes collected under this chapter.**

**STEP TWO: Determine the tax rate determined under section 201.2 of this chapter.**

**STEP THREE: Multiply the STEP TWO result by one hundred (100).**

**STEP FOUR: Express the STEP THREE result as a fraction, with two (2) being the numerator and the STEP THREE result being the denominator.**

**STEP FIVE: Multiply the STEP FOUR result by the STEP ONE result.**

(c) After the transfer required by subsection (a), the administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

(1) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the local road and street account under IC 8-14-2 and in the same proportion among the counties, cities, and towns as funds are distributed under IC 8-14-2-4;

(2) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1; and

(3) forty percent (40%) to the Indiana department of transportation.

~~(c)~~ (d) The auditor of state shall hold all amounts of collections received under subsection ~~(b)~~ (c) from the administrator that are made

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1 during a particular month and shall distribute all of those amounts  
2 pursuant to subsection ~~(b)~~ (c) on the fifth day of the immediately  
3 succeeding month.

4 ~~(d)~~ (e) All amounts distributed under subsection ~~(b)~~ (c) may only be  
5 used for purposes that money distributed from the motor vehicle  
6 highway account may be expended under IC 8-14-1.

7 SECTION 6. [EFFECTIVE JULY 1, 2002] (a) **Notwithstanding**  
8 **IC 6-6-1.1-201, as amended by this act, the new cents per mile**  
9 **license tax and the per gallon conversion rate determined under**  
10 **IC 6-6-1.1-201.2, as added by this act, apply to the use of gasoline**  
11 **after December 30, 2002.**

12 (b) The department of state revenue shall, before November 1,  
13 2002, publish in the Indiana Register the per gallon conversion rate  
14 determined under IC 6-6-1.1-201.2, as added by this act, that is  
15 applicable for the calendar year beginning January 1, 2003.

16 (c) This SECTION expires January 2, 2003.

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